

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RYAN O'DELL, :
: Plaintiff, :
: :
: -against- :
: :
LANDMARK INFRASTRUCTURE LP, et al., :
: Defendants. :
: :
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21-CV-7635 (VSB)

ORDERVERNON S. BRODERICK, United States District Judge:

On September 13, 2021, Plaintiff filed this action against Defendants Landmark Infrastructure LP, Arthur P. Brazy, Jr., Steven M. Sonnenstein, Sadiq Malik, Thomas Carey White, III, Gerald Tywoniuk, and Keith Benson. (Doc. 1.) To date, Plaintiff has not obtained a summons, filed an affidavit of service, or taken any other action to prosecute this case.

Accordingly, it is hereby:

ORDERED that, no later than December 23, 2021, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658

(S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff'd*, 173 F.3d 844 (2d Cir.1999)). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendants within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: December 14, 2021
New York, New York



VERNON S. BRODERICK
United States District Judge